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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,909	12/22/2000	Lucy Broyles	4013-00100	4442
30652	7590	04/20/2006	EXAMINER	
CONLEY ROSE, P.C. 5700 GRANITE PARKWAY, SUITE 330 PLANO, TX 75024			GATES, ERIC ANDREW	
			ART UNIT	PAPER NUMBER
			3722	
DATE MAILED: 04/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/747,909	BROYLES, LUCY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eric A. Gates	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 December 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 17-20,23-26,28-36 and 38-41 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 17-20,23-26,28-36 and 38-41 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 30 December 2005 has been entered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 40 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 40 recites the limitation "the shared experience" in line 2. There is insufficient antecedent basis for this limitation in the claim, as it cannot be determined whether the shared experience is a different experience from the planned shared experience.

5. Claim 41 recites the limitation "the experience" in line 2. There is insufficient antecedent basis for this limitation in the claim, as it cannot be determined whether the experience is a different experience from the planned experience.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (U.S. Patent Application Publication 2002/0067037) in view of Panec (U.S. Patent 5,957,693).

8. Regarding claim 17, Lo discloses a process by which a reader can facilitate the reading skills of a pre-reader comprising: the reader obtaining a kit 1 having a theme related to a planned shared experience (see paragraph [0002]), the kit comprising: a plurality of pages having binder and outer edges (see figure 1), the plurality of pages including pages having text 1B related to the theme of the planned shared experience; and a binder (see paragraph [0006], lines 8-12) configured to secure the plurality of pages, proximate the binder edges, at least one of the pages having text related to the theme of the planned shared experience comprising: a photographic site 1A/2 configured to receive a pictorial representation; and a caption site 1B/2 corresponding to the photographic site, the caption site configured to receive text; the reader sharing an

experience (album is shown to friends and family, see paragraph [0002]; memorializing the shared experience through one or more pictorial representations (pictorial representations 1A and personal photographs, see paragraph [0011]), the shared experience being related to the theme of the kit; constructing a first personalized language book by: affixing one or more pictorial representations to corresponding ones of the photographic sites 2 of the at least one of the pages having text related to the theme; personalizing one or more of the one or more pictorial representations by adding text (slide transparencies, see paragraph [0008]) to the caption sites 2 to which the one or more pictorial representations to be personalized were affixed; organizing the plurality of pages in a preferred order (pages may be inserted and removed, see paragraph [0006]); and binding the plurality of pages with the binder.

Lo does not disclose the kit being a repetitive language kit, or the planned shared experience and the shared experience being between a reader and a pre-reader, or the text being repetitive text.

Panec teaches a method of shared reading between a reader and a novice reader (i.e., pre-reader; Webster's Online Dictionary defines novice as one who has no previous training or experience in a specific field or activity) using a repetitive language kit 10 that includes repetitive text 20a-c, in which the reader reads from a skilled text and the novice reader reads from repetitive text written at a lower skill level for the purpose of encouraging and facilitating the novice reader to learn to read. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the kit of Lo with the repetitive language for a pre-reader of

Panec in order to have a repetitive language kit having a theme related to a planned shared experience.

Regarding claims 23-24, the modified invention of Lo discloses the invention substantially as claimed.

Regarding claims 25-26, the modified invention the modified invention of Lo discloses the invention substantially as claimed except for constructing a second personalized repetitive language book. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of books for the purpose of being read by the reader and the pre-reader, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

9. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo in view of Panec and further in view of Illos et al. (U.S. Patent 4,149,738).

The modified invention of Lo discloses the invention substantially as claimed except for the binder being selected from the group consisting of lace, ribbon, string and yarn, the binder being threaded through perforations of the front cover, back cover, and plurality of pages to form a plurality of loops proximate the front cover perforations and the ends being threaded through the loops for securing together.

Illos et al. disclose a tamper-proof page assembly comprising a plurality of pages (10) having a ribbon binder (16) for the purpose of securing the pages together. Illos et al. show that ribbon is an equivalent structure for binding pages known in the art.

Therefore, because these two binding structures were ad-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute ribbon, as taught by Illos et al., for the binding of Seaton.

10. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo in view Panec and further in view of Phillips (U.S. Patent 5,651,678).

Lo, as modified by Panec, discloses the claimed invention except for explicitly disclosing the process of memorizing the text on the pages.

Phillips discloses an educational aid and method for using it to teach students to read by facilitating the rapid development of sight-word vocabularies in an interesting and challenging manner for the purpose of utilizing a student's natural ability to learn and memorize a text (see column 2, lines 39-42, 66-67 thorough column 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art of education to memorize text on pages, as taught by Phillips, to facilitate the instruction of students to read.

11. Claims 31-36, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (U.S. Patent Application Publication 2002/0067037) in view of Panec (U.S. Patent 5,957,693).

Regarding claim 31, Lo discloses a process by which a reader facilitates the reading skills of a pre- reader comprising: obtaining a kit 1 having a theme related to a planned experience (see paragraph [0002]), the kit comprising: a plurality of pages

having text 1B related to the theme of the planned experience; and a binder (see paragraph [0006], lines 8-12) configured to secure the plurality of pages having text 1B related to the theme of the planned experience; memorializing an experience (using personal photographs, see paragraph [0011]), the experience being similar to the planned experience; constructing a first personalized language book by: affixing visual memorials (personal photographs, see paragraph [0011]) of the experience to the plurality of pages having text related to the theme of the planned experience; organizing the plurality of pages in a preferred order (pages may be inserted and removed, see paragraph [0006]); and binding the plurality of pages with the binder.

Lo does not disclose the kit being a repetitive language kit, or the planned shared experience and the shared experience being between a reader and a pre-reader, or the text being repetitive text.

Panec teaches a method of shared reading between a reader and a novice reader (i.e., pre-reader; Webster's Online Dictionary defines novice as one who has no previous training or experience in a specific field or activity) using a repetitive language kit 10 that includes repetitive text 20a-c, in which the reader reads from a skilled text and the novice reader reads from repetitive text written at a lower skill level for the purpose of encouraging and facilitating the novice reader to learn to read. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the kit of Lo with the repetitive language for a pre-reader of Panec in order to have a repetitive language kit having a theme related to a planned shared experience.

Regarding claim 32, the modified invention the modified invention of Lo discloses the invention substantially as claimed.

Regarding claims 33-34, the modified invention the modified invention of Lo discloses personalizing said visual memorials by adding personalized text (slide transparencies, see paragraph [0008]) to said plurality of pages to which said visual memorials were affixed

Regarding claims 35-36, the modified invention the modified invention of Lo discloses the invention substantially as claimed except for constructing a second personalized repetitive language book. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of books for the purpose of being read by the reader and the pre-reader, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

12. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo in view of Panec and further in view of Phillips (U.S. Patent 5,651,678).

Lo, as modified by Panec, discloses the claimed invention except for explicitly disclosing the process of memorizing the text on the pages.

Phillips discloses an educational aid and method for using it to teach students to read by facilitating the rapid development of sight-word vocabularies in an interesting and challenging manner through the utilization of a student's natural ability to learn and memorize a text (see column 2, lines 39-42, 66-67 thorough column 3, lines 1-7).

Therefore, it would have been obvious to one having ordinary skill in the art of education to memorize text on pages, as taught by Phillips, to facilitate the instruction of students to read.

13. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo in view of Panec and further in view of Rehkemper et al. (U.S. Patent 6,525,706).

Regarding claims 40-41, the modified invention the modified invention of Lo discloses the invention substantially as claimed except wherein the planned shared experience is a planned trip to a zoo, the shared experience is an actual trip to the zoo and the pictorial representations are pictures of animals seen at the zoo by the reader and the pre-reader

Rehkemper et al. teach an electronic picture book 10 in which various topics may be included for the purpose of providing the user with various themes or stories; for example, a trip to the zoo is disclosed in figure 2. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the kit of Lo with the trip to the zoo of Rehkemper et al. in order to have a repetitive language kit having a theme related to a trip to the zoo.

### ***Response to Arguments***

14. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

15. For the reasons as set forth above, the rejections are maintained.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER

  
EAG  
17 April 2006